

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MORGAN EARNEST, a minor, by	:	
and through her mother, LINDA	:	
KOHLER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No.
	:	
MIFFLIN COUNTY SCHOOL	:	
DISTRICT,	:	
	:	
Defendant.	:	
	:	
	:	
_____	:	

COMPLAINT

Plaintiff Morgan Earnest, a minor, by and through her mother, Linda Kohler, and by and through the undersigned counsel, respectfully brings this action against Defendant Mifflin County School District, stating in support thereof as follows:

INTRODUCTION

1. In the American public school system, “students do not ‘shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.’” *Morse v. Frederick*, 551 U.S. 393, 396-97 (2007) (quoting *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 506 (1969)).

2. To “justify prohibition of a particular expression of opinion,” school officials must demonstrate that “the forbidden conduct would materially and

substantially interfere with the requirements of appropriate discipline in the operation of the school.” *Tinker*, 393 U.S. at 506.

3. This lawsuit challenges a patently unlawful, blanket prohibition against all clothing that expresses political speech in Defendant Mifflin County School District (“District”).

4. The District is a public school district with administrative offices in Lewistown, Pennsylvania.

5. On approximately October 1, 2020, the District distributed the following message to its students’ families:

Dear Parents/Guardians:

This information is going to be shared with students and staff today.

Starting Monday October 5, 2020, no masks, articles of clothing or other items may be worn or otherwise brought to Mifflin County School District property, which contain political speech or symbolize a particular political viewpoint, including but not limited to confederate flags and swastikas, as well as BLM logos or phrases associated with that movement.

This action is being taken due to complaints that have been received about such items and how those items have disrupted the education of students within the Mifflin County School District.

Thanks for your attention on this matter.

MCASD Administration

A copy of the foregoing communication is attached as Exhibit 1.

6. Between approximately October 2, 2020, and October 9, 2020, the District ceased in-school operations due to the COVID-19 pandemic.

7. Plaintiff Morgan Earnest is a tenth-grade student at Mifflin County High School, a high school within the District.

8. Ms. Earnest is a supporter of President Donald Trump.

9. When school reopened on October 12, 2020, Ms. Earnest decided to show her support for President Trump by wearing to school a mask and t-shirt supporting President Trump's reelection campaign.

10. Ms. Earnest wore the President Trump reelection mask to school every day that she attended school between the start of this academic year and October 12, 2020.

11. Ms. Earnest wore the President Trump reelection t-shirt to school on two prior occasions.

12. Ms. Earnest's wearing of the mask and t-shirt on prior occasions caused no disruptions to the District's activities.

13. The mask states, in full, "Women for Trump." A photograph of the mask is attached as Exhibit 2.

14. The t-shirt states, on the front, “Trump 2020 Keep America Great,” and, on the back, “Trump the Sequel Make Liberals Cry Again.” A copy of the t-shirt is attached as Exhibit 3.

15. At approximately 9:00 a.m. on October 12, 2020, Ms. Earnest was sent to her school’s administrative office and given the ultimatum of either turning her mask and shirt inside-out or going home for the rest of the school day.

16. The sole stated reason for requiring Ms. Earnest to take such actions was the District’s new policy prohibiting clothing expressing political beliefs.

17. Ms. Earnest’s mask and t-shirt did not disrupt the District’s activities on October 12, 2020.

18. Ms. Earnest chose not to turn her mask and shirt inside-out; as a result, she was suspended for the remainder of the school day on October 12, 2020.

19. When Ms. Earnest was sent home, the District’s representatives further communicated that she would be sent home if she ever wore a mask or t-shirt expressing a political viewpoint again.

20. This Complaint seeks relief from the District’s plainly unconstitutional prohibition of all clothing expressing any political viewpoints.

PARTIES

21. Ms. Earnest is a fifteen-year-old student in the District, who lives with her parents in Lewistown, Pennsylvania.

22. Plaintiff Linda Kohler is Ms. Earnest's mother.

23. The District is a public school district and political subdivision of the Commonwealth of Pennsylvania located in Mifflin County.

24. The District maintains its administrative offices at 201 Eighth Street, Lewistown, Pennsylvania, 17044.

JURISDICTION AND VENUE

25. As this action seeks to vindicate rights protected by the First and Fourteenth Amendments to the U.S. Constitution, this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

26. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because the District is subject to personal jurisdiction within the Middle District of Pennsylvania and the events that give rise to this action occurred within the Middle District of Pennsylvania.

FACTUAL BACKGROUND

27. As set forth above, the District maintains a policy that prohibits all political speech of any kind while on District grounds.

28. As also set forth above, Ms. Earnest wore a mask and t-shirt supporting President Donald Trump's reelection campaign to school on October 12, 2020, at which time she was sent home for violating the foregoing policy.

29. Ms. Earnest's mask and t-shirt did not disrupt the District's activities in any way, and there is no likelihood that continued wearing of the mask and/or t-shirt will disrupt the District's activities.

30. As a result of the District's decision to enforce its policy against political speech, Ms. Earnest was sent home, and missed a day of educational opportunities, solely because she wore the foregoing clothing.

31. Moreover, as long as the District's policy is in effect, Ms. Morgan is unable to wear the reelection mask and/or t-shirt to school; indeed, Ms. Morgan is prohibited from wearing *any* clothing representing *any* political viewpoints.

32. Ms. Earnest wishes to express her peaceful support of President Trump's reelection campaign and otherwise express her political beliefs.

33. Ms. Earnest's exclusion from school due solely to her decision to wear clothing containing peaceful political viewpoints constitutes irreparable harm that cannot be adequately remedied by monetary damages.

COUNT I

Violation of First and Fourteenth Amendments and 42 U.S.C. § 1983

34. The allegations set forth in paragraphs one through thirty-three are incorporated as if set forth fully herein.

35. The District's policy prohibiting all student political clothing violates the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C.

§ 1983 in a number of ways, which include, but are not necessarily limited to, the following:

- A. The policy is facially unconstitutional, insofar as it prohibits all forms of political speech contained within students' clothing;
- B. The policy is unconstitutional, insofar as it led to the suspension of Ms. Earnest for wearing a t-shirt that did not disrupt the District's activities; and
- C. The policy is unconstitutional, insofar as it is prohibiting Ms. Earnest from wearing any clothing containing political speech.

36. As a direct and proximate consequence of these unlawful acts, Ms. Earnest has suffered and will continue to suffer loss of her liberties under the U.S. Constitution.

WHEREFORE, Plaintiff Morgan Earnest, a minor, by and through her mother, Linda Earnest, respectfully requests that this Court provide the following relief:

- A. Declare that the District's disciplinary action against Ms. Earnest for wearing a President Trump reelection mask and t-shirt violated Ms. Earnest's rights under the First and Fourteenth Amendments to the U.S. Constitution;

- B. Order the removal from Ms. Earnest's educational record any violations of the District's policy prohibiting the wearing of any clothing expressing a political viewpoint and/or any related absences;
- C. Declare that the District's policy prohibiting the wearing of any clothing expressing a political viewpoint violates the First and Fourteenth Amendments to the U.S. Constitution;
- D. Enjoin the District from any continuing punishment or sanction against Ms. Earnest on account of her constitutionally protected speech, including expunging from Ms. Earnest's school records all references to the incident in question;
- E. Prohibit the District from enforcing its policy prohibiting the wearing of any clothing expressing a political viewpoint;
- F. Award Ms. Earnest damages in an amount to be determined at trial;
- G. Award Ms. Earnest costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and
- H. Grant such other relief as this Court deems just and appropriate.

Respectfully submitted,

s/ David S. Gaines, Jr.

David S. Gaines, Jr.

I.D. No. PA308932

MILLER, KISTLER & CAMPBELL

720 South Atherton Street, Suite 201

State College, PA 16801

(814) 234-1500 TEL

(814) 234-1549 FAX

dgaines@mkclaw.com

Counsel for Plaintiff

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